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SENATE JOINT MEMORIAL 98

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Michael S. Sanchez

A JOINT MEMORIAL

**REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO DIRECT THE
APPROPRIATE INTERIM LEGISLATIVE COMMITTEE TO STUDY THE
INCONSISTENCY BETWEEN STATE AND FEDERAL LAW WHEREBY AN
INCUMBENT LOCAL EXCHANGE CARRIER PROVIDING SERVICES IN THE
STATE MEETS THE DEFINITION OF A RURAL TELEPHONE COMPANY UNDER
FEDERAL LAW BUT DOES NOT MEET THE DEFINITION OF AN INCUMBENT
RURAL TELECOMMUNICATIONS CARRIER UNDER STATE LAW.**

**WHEREAS, an incumbent local exchange carrier is either
regulated under the Rural Telecommunications Act of New Mexico
if the carrier has fewer than fifty thousand access lines or
regulated under the New Mexico Telecommunications Act if the
carrier has more than fifty thousand access lines; and**

**WHEREAS, if a local exchange carrier is regulated under
the Rural Telecommunications Act of New Mexico, it is**

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1 considered an incumbent rural telecommunications carrier and is
2 subject to relaxed regulation; and

3 WHEREAS, if a local exchange carrier is regulated under
4 the New Mexico Telecommunications Act, it is essentially
5 considered a large incumbent carrier regardless of whether it
6 has fifty thousand one access lines or hundreds of thousands of
7 access lines; and

8 WHEREAS, a large incumbent carrier is subject to an
9 alternate form of regulation, as approved by the public
10 regulation commission, which includes price caps for
11 residential and business local exchange service as well as
12 quality of service and consumer protection standards; and

13 WHEREAS, local exchange carriers in the state range in
14 size from a small carrier with a few hundred access lines, to a
15 medium size carrier of approximately ninety-seven thousand
16 access lines, to the largest carrier with more than seven
17 hundred thousand access lines; and

18 WHEREAS, in some cases, an incumbent local exchange
19 carrier in the state that does not meet the definition of an
20 incumbent rural telecommunications carrier under New Mexico law
21 is considered a rural telephone company under federal law; and

22 WHEREAS, the levels of regulation differ significantly for
23 those incumbent local exchange carriers regulated under the
24 Rural Telecommunications Act of New Mexico and those regulated
25 under the New Mexico Telecommunications Act; and

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1 WHEREAS, no middle tier of regulation exists under New
2 Mexico law; and

3 WHEREAS, the legislature has declared, specifically in the
4 Rural Telecommunications Act of New Mexico, that rural carriers
5 should be subject to more relaxed regulation and that the cost
6 of regulation should be reduced; and

7 WHEREAS, the legislature has also declared in the Rural
8 Telecommunications Act of New Mexico that in helping to create
9 a competitive telecommunications environment in the state,
10 there should be consistency with the federal Telecommunications
11 Act of 1996; and

12 WHEREAS, under the New Mexico Telecommunications Act, the
13 legislature has declared not only the need to create a
14 competitive telecommunications environment, but also the need
15 to encourage investment in telecommunications infrastructure;
16 and

17 WHEREAS, the role of government and the legislature should
18 be to help achieve those objectives and to fashion a regulatory
19 environment that not only streamlines regulation, but also
20 enhances economic development and encourages investment in the
21 state, and further promotes the value that telecommunications
22 services bring to the citizens of the state of New Mexico,
23 particularly in rural areas;

24 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
25 STATE OF NEW MEXICO that the New Mexico legislative council be

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1 requested to direct the appropriate interim legislative
2 committee to study the most appropriate means to address the
3 situation where an incumbent local exchange carrier does not
4 meet the definition of an incumbent rural telecommunications
5 carrier under New Mexico law but does meet the definition of a
6 rural telephone company under federal law; as it considers
7 changes in law to create consistency in regulation, to consider
8 issues such as the need for relaxed regulation, reduction of
9 regulatory costs, certainty of regulatory requirements, quality
10 of service, consumer protection, the characteristics of the
11 service area and the encouragement of economic development; and
12 to report its findings to the first session of the forty-
13 seventh legislature; and

14 BE IT FURTHER RESOLVED that copies of this memorial be
15 transmitted to the co-chairs of the New Mexico legislative
16 council and the members of the public regulation commission.

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